IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No. 23752 of 1996

Between:

G. Srilatha w/o. J. Ramamohana Rao, Junior Lecturer in Physics,

Singareni Colleries Women's Junior College,

Kothagudem, Khammam District.

..... PETITIONER

AND

1 Singareni Collieries Company Ltd., rep. by

its Chairman & Managing Director, Kothagudem,
Khammam District.
2 Chief General Manager (T & E) and

Correspondent, Singareni Collieries Women's Degree College,
Kothagudem, Khammam District.
3 Regional Joint Director of Higher Education, Warangal.
4 Commissioner of Collegiate Education, Government of

Andhra Pradesh, Nampally, Hyderabad.
5 State of Andhra Pradesh, , rep. by its Secretary,

Education Department, Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pleased to issue a writ or order or direction, especially one in the nature of Mandamus i) declaring the action of the Singareni Colleries Company Limited, in trying to fill- up the post of Lecturer in S.C. Women's Degree College, Kothagudem

in Electronics by Direct Recruitment as illegal, arbitrary and without jurisdiction; ii) to declare that the petitioner is entitled for promotion as Lecturer in Electronics/ Physics, in S.C.Women's Degree College, Kothagudem as per G.O.Ms.No.127, Education, dt. 07.06.1993; iii) compel the respondents to promote the petitioner as Lecturer in Electronics in S.C. Women's Degree College, Kothagudem in terms of G.O.Ms.No. 127, dt.07.06.1993 and grant all consequential benefits. iv) to grant such other relief or reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: Mr. V.JOGAIAH SARMA

Counsel for Respondent Nos.1&2: Mr. K.SRINIVASAMURTHY

Counsel for Respondent Nos.3to5: G.P. FOR HIGHER EDUCATION

The Court made the following :

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.23752 of 1996

ORAL ORDER:

The only question that falls for consideration in this Writ Petition is as to whether a Junior Lecturer appointed against an unaided vacancy is entitled for being promoted to the post of a Lecturer in the Degree College, wherever there is a composite College, whether unaided or aided?

It is the case of the petitioner that she had passed M.Sc. Physics (Solid State Physics) in I Class from Nagarjuna University and working as a Junior Lecturer in Physics in Singareni Collieries Women's Junior College, Kothagudem since 12.12.1984. The College of the 1st respondent is a composite College consisting of both Intermediate and Degree courses.

The Junior Lecturers in the Government Colleges are eligible for promotion to the post of Lecturer in the Degree Colleges, of course, subject to satisfying the conditions therefor. On a representation made by Aided Teachers' Association, Government issued G.O.Ms.No.677, Education, dated 18-7-1979, according to which, out of every four vacancies arising in each college, the second vacancy shall be filled up by direct recruitment and first, third and fourth vacancies shall be filled up by transfer among Junior Lecturers working under the same Management. However, if suitable candidates are not available among Junior Lecturers, direct recruitment can be sought for. The said G.O. was modified vide Govt.Memo.No.3751-J2/79-9,

dated 22-9-1980 to the effect that first, second and third vacancies shall be filled up by promotion and the fourth vacancy by direct recruitment.

It is the case of the petitioner that being a Junior Lecturer, she is fully qualified for being promoted to the post of Lecturer in the Degree College, whether in aided vacancy or unaided vacancy, as per G.O.Ms.No.677, Education, dated 18-7-1979 and Government Memo dated 22-9-1980. When the vacancies of Lecturers in the Degree College are sought to be filled up, her case was not considered. The same is arbitrary and illegal.

A detailed counter affidavit has been filed on behalf of respondents 3 to 5 denying the allegations made by the petitioner. In the counter, it is categorically asserted that the Singareni Collieries Women's Junior College is an unaided College, whereas the Degree College is an aided College. G.O.Ms.No.677, Education, dated 18-7-1979 is applicable only to the Colleges, which are admitted to grant-in-aid and not to the Colleges, which are not admitted to grant-in-aid. Further, it is asserted that even G.O.Ms.No.127, Education, dated 7-6-1993 is not applicable to the case of the petitioner and if the Management is trying to fill up the vacancy in terms of G.O.Ms.No.127,Education, dated 7-6-1993, the petitioner cannot have any claim over that. It is between the Management and the petitioner to promote the petitioner and pay her, as she is working in unaided post. Apart from this, the petitioner is not entitled to claim promotion against backlog vacancy of Scheduled Caste/Scheduled Tribe candidates for which an advertisement was published in Eenadu Telugu daily dated 2-8-1996.

Learned counsel for the petitioner strenuously contended that whether the post held by the petitioner is aided post or unaided post, the petitioner is also equally entitled for being considered for promotion to the post of Lecturer in Degree College as per G.O.Ms.No.677, Education, dated 18-7-1979 read with Government Memo dated 22-9-1980 and such a differentiation of Lecturers working in unaided posts and aided posts for promotion is untenable and is hit by Article 14 of the Constitution of India.

Learned Government Pleader appearing for respondents 3 to 5 contended that the petitioner being a Junior Lecturer appointed against unaided vacancy, she has no right to claim for promotion as a Lecturer in the Degree College, which is an aided College.

I have given earnest consideration to the submissions made by both the learned

counsel and gone through the entire material on record.

G.O.Ms.No.677, Education, dated 18-7-1979, on which the learned counsel for the petitioner placed strong reliance, does not support the case of the petitioner. It is the contention of the learned counsel for the petitioner that since G.O.Ms.No.677, Education, dated 18-7-1979 and Government Memo dated 22-9-1980 do not categorically discriminate between aided and unaided Junior Lecturer posts as to promotion to the post of Lecturer in Degree Colleges, it must be deemed that the Junior Lecturers working in unaided vacancies are also entitled for promotion to the post of Lecturer in the Degree Colleges, whether it is aided or unaided vacancy in their turn, if they satisfy all the requisite conditions therefor. I am afraid, I cannot accede to the said contention. Neither the said Governmental Order nor the Government Memo guides us anywhere. On the other hand, in the absence of any positive assertion that the Junior Lecturers working in the unaided vacancies in a Junior College are also entitled for being promoted to the post of Lecturer in the Degree College, the petitioner is not entitled for any claim as a matter of right. I am of the considered opinion that the Junior Lecturers working against unaided vacancies and aided vacancies are governed by different sets of Rules. May be, a few service conditions are protected under a statute. That itself does not mean that the petitioner is entitled for being promoted to the post of Lecturer in the Degree College against aided vacancy. In the counter, it is rightly asserted that if the petitioner is claiming promotion against an unaided vacancy, it is between the Management and the petitioner to sort out the issue. In view of the above, I am of the view that the discrimination sought to be made out by the learned counsel for the petitioner is not hit by Article 14 of the Constitution of India. The service conditions of the Lecturers working in aided posts and unaided posts cannot be equated. The Lecturers working in unaided posts are a class by themselves. They cannot compare themselves with that of the Lecturers working in aided posts and seek same treatment with that of the Lecturers appointed against aided vacancies. That apart, the very G.O.Ms.No.677, Education, dated 18-7-1979, was an offshoot of a representation made by the Aided Teachers' Association.

For all the above reasons, the Writ Petition fails and is liable to be dismissed. Accordingly, it is dismissed. No costs.

04-3-2005

prk

ASSISTANT REGISTRAR

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SECTION OFFICER

To

1 The Chairman & Managing Director,

Singareni Collieries Company Ltd., Kothagudem,
Khammam District.
2 Chief General Manager (T & E) and

Correspondent, Singareni Collieries Women's Degree College,
Kothagudem, Khammam District.
3 Regional Joint Director of Higher Education, Warangal.
4 Commissioner of Collegiate Education, Government of

Andhra Pradesh, Nampally, Hyderabad.
5 The Secretary, Education Department,

State of Andhra Pradesh, Secretariat, Hyderabad.

6 Govt.Pleader for Higher Education, High Court Buildings, Hyderabad (OUT)

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